

§ 36.19

36 CFR Ch. II (7–1–14 Edition)

(5) Following consideration of the proposals the Board shall publish final regulations pertaining to subparts C and D of this part in the FEDERAL REGISTER.

(b) Proposals for changes to subparts A and B of this part shall be accepted by the Secretary of the Interior in accordance with 43 CFR part 14.

[67 FR 30563, May 7, 2002, as amended at 75 FR 63092, Oct. 14, 2010]

§ 36.19 Special actions.

(a) *Emergency special actions.* In an emergency situation, if necessary to ensure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons, the Board may immediately open or close public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for take for subsistence uses, or close public lands to take for non-subsistence uses of fish and wildlife, or restrict the requirements for take for nonsubsistence uses.

(1) If the timing of a regularly scheduled meeting of the affected Regional Council so permits without incurring undue delay, the Board may seek Council recommendations on the proposed emergency special action. Such a Council recommendation, if any, will be subject to the requirements of § 242.18(a)(4).

(2) The emergency action will be effective when directed by the Board, may not exceed 60 days, and may not be extended unless the procedures for adoption of a temporary special action, as set forth in paragraph (b) of this section, have been followed.

(b) *Temporary special actions.* After adequate notice and public hearing, the Board may temporarily close or open public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for subsistence take, or close public lands for the taking of fish and wildlife for nonsubsistence uses, or restrict take for nonsubsistence uses.

(1) The Board may make such temporary changes only after it determines that the proposed temporary change will not interfere with the conservation of healthy fish and wildlife populations, will not be detrimental to

the long-term subsistence use of fish or wildlife resources, and is not an unnecessary restriction on nonsubsistence users. The Board may also reopen public lands to nonsubsistence uses if new information or changed conditions indicate that the closure is no longer warranted.

(i) Prior to implementing a temporary special action, the Board will consult with the State of Alaska and the Chairs of the Regional Councils of the affected regions.

(ii) If the timing of a regularly scheduled meeting of the affected Regional Council so permits without incurring undue delay, the Board will seek Council recommendations on the proposed temporary special action. Such Council recommendations, if any, will be subject to the requirements of § 242.18(a)(4).

(2) The length of any temporary action will be confined to the minimum time period or harvest limit determined by the Board to be necessary under the circumstances. In any event, a temporary opening or closure will not extend longer than the end of the current regulatory cycle.

(c) The Board may reject a request for either an emergency or a temporary special action if the Board concludes that there are no time-sensitive circumstances necessitating a regulatory change before the next regular proposal cycle. However, a special action request that has been rejected for this reason may be deferred, if appropriate and after consultation with the proponent, for consideration during the next regular proposal cycle. The Board will consider changes to customary and traditional use determinations in subpart C of this part only during the regular proposal cycle.

(d) The Board will provide notice of all regulatory changes adopted via special action by posting the change on the Office of Subsistence Management Web site (<http://alaska.fws.gov/asm/index.cfm>). When appropriate, notice may also include distribution of press releases to newspapers, local radio stations, and local contacts, as well as direct notification to the proponent and interested parties. The Board will publish notice and reasons justifying the

Forest Service, USDA

§ 242.23

special action in the FEDERAL REGISTER as soon as practicable.

(e) The decision of the Board on any proposed special action will constitute its final administrative action.

(f) Regulations authorizing any individual agency to implement closures or restrictions on public lands managed by the agency remain unaffected by the regulations in this part.

(g) Fish and wildlife may not be taken in violation of any restriction, closure, or change authorized by the Board.

[75 FR 63092, Oct. 14, 2010]

§ 242.20 Request for reconsideration.

(a) Regulations in subparts C and D of this part published in the FEDERAL REGISTER are subject to requests for reconsideration.

(b) Any aggrieved person may file a request for reconsideration with the Board.

(c) To file a request for reconsideration, you must notify the Board in writing within sixty (60) days of the effective date or date of publication of the notice, whichever is earlier, for which reconsideration is requested.

(d) It is your responsibility to provide the Board with sufficient narrative evidence and argument to show why the action by the Board should be reconsidered. The Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. You must include the following information in your request for reconsideration:

- (1) Your name, and mailing address;
- (2) The action which you request be reconsidered and the date of FEDERAL REGISTER publication of that action;
- (3) A detailed statement of how you are adversely affected by the action;
- (4) A detailed statement of the facts of the dispute, the issues raised by the request, and specific references to any law, regulation, or policy that you believe to be violated and your reason for such allegation;

(5) A statement of how you would like the action changed.

(e) Upon receipt of a request for reconsideration, the Board shall transmit a copy of such request to any appropriate Regional Council and the Alaska Department of Fish and Game (ADFG) for review and recommendation. The Board shall consider any Regional Council and ADFG recommendations in making a final decision.

(f) If the request is justified, the Board shall implement a final decision on a request for reconsideration after compliance with 5 U.S.C. 551-559 (APA).

(g) If the request is denied, the decision of the Board represents the final administrative action.

§ 242.21 [Reserved]

Subpart C—Board Determinations

§ 242.22 Subsistence resource regions.

(a) The Board hereby designates the following areas as subsistence resource regions:

- (1) Southeast Region;
- (2) Southcentral Region;
- (3) Kodiak/Aleutians Region;
- (4) Bristol Bay Region;
- (5) Yukon-Kuskokwim Delta Region;
- (6) Western Interior Region;
- (7) Seward Peninsula Region;
- (8) Northwest Arctic Region;
- (9) Eastern Interior Region;
- (10) North Slope Region.

(b) You may obtain maps delineating the boundaries of subsistence resource regions from the U.S. Fish and Wildlife Service, 1011 East Tudor Road, MS 121, Anchorage, Alaska 99503.

[67 FR 30570, May 7, 2002, as amended at 76 FR 12569, Mar. 8, 2011]

§ 242.23 Rural determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § 242.15, except those set forth in this paragraph. You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service, Office of Subsistence Management. The nonrural areas include:

- (1) Anchorage, Municipality of;
- (2) Fairbanks North Star Borough;
- (3) Homer area—including Homer, Anchor Point, North Fork Road area,